

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	)	
On Its Own Motion	)	
	)	Docket No. 09-0384
Amendment of 83 Ill. Adm. Code 735	)	

STAFF OF THE ILLINOIS COMMERCE COMMISSION'S  
RESPONSE TO CLINTON A. KRISLOV'S PETITION TO INTERVENE AND OBJECTION

NOW COMES the Staff of the Illinois Commerce Commission, and by and through its undersigned counsel, in response to the Petition for Leave to Intervene and Objection of Clinton A. Krislov, states as follows:

1. On November 24, 2009, the Commission entered its Order initiating a second notice period. See Order.

2. The Order in question makes clear that the proposed revisions to Part 735 were published in the Illinois Register on September 25, 2009. Order at 1; see *also* 33 Ill. Reg. 12918, 2009 WL 3226807 (September 25, 2009).

3. Section 5-40 of the Illinois Administrative Procedure Act (APA) provides in relevant part that: "[e]ach agency shall give at least 45 days' notice of its intended [rulemaking] action to the general public. This first notice period shall commence on the first day the notice appears in the Illinois Register." 5 ILCS 100/5-40(b). Section 5-40 further provides that the notice period commences upon publication in the Illinois Register. Id.

4. Section 5-40 of the APA further provides, in relevant part, that:

The agency shall hold a public hearing on the proposed rulemaking during the first notice period if (i) during the first notice period, the agency finds that a public hearing would facilitate the submission of views and comments that might not otherwise be submitted or (ii) the agency

receives a request for a public hearing, within the first 14 days after publication of the notice of proposed rulemaking in the Illinois Register, from 25 interested persons, an association representing at least 100 interested persons, the Governor, the Joint Committee on Administrative Rules, or a unit of local government that may be affected.

5 ILCS 100/5-40(b)

5. Each of these requirements has been complied with. The Commission's Order initiating a second notice period was and is entirely proper.

6. Krislov did not seek to intervene at any time during the first notice period, doing so ten days thereafter. Accordingly, while Staff sees no impediment to Krislov's Petition to Intervene being entertained, his objection is out of time and cannot.

WHEREFORE, Staff respectfully requests that its recommendations as set forth herein be adopted.

Staff of the Illinois  
Commerce Commission

/s/ \_\_\_\_\_  
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